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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,106	01/09/2006	Alex Zakonov	AVI-0003	7200
7590 09/18/2008 Law Offices of Steven McHugh 46 Washington Street Middletown, CT 06457			EXAMINER PATEL, JIGAR P	
			ART UNIT 2114	PAPER NUMBER
			MAIL DATE 09/18/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/564,106

**Applicant(s)**

ZAKONOV ET AL.

**Examiner**

JIGAR PATEL

**Art Unit**

2114

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 7-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the original filing on January 9, 2006. Claims 1-4, 7-16, and 18-20 are pending and have been considered below. The applicant has canceled claims 5, 6, and 17.

### ***Priority***

2. Acknowledgement is made of applicant's priority of United States Provisional Patent Application Number 60/486,560 filed on July 11, 2003.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-16, 18, 19 and 20 are not limited to one of the four statutory categories of inventions. In view of Applicant's disclosure, Specification [Page 11, Paragraph 2], the system is not limited to statutory embodiments, instead being defined as including both nonspecific statutory embodiments (e.g. computer-readable storage media) and non-statutory embodiments (e.g. transmission medium). As such, the claims are not limited to patentable subject matter and is/are therefor non-statutory. The Examiner recommends amending claims 19 and 20 to read "A computer-readable storage medium, which when executed by a computer..." in order to overcome this rejection.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 7-16, and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ritz et al. (US 7,263,632 B2).

As per claim 1: **A method for monitoring exception events generated by a software application, comprising:**

**operating the software application to generate exception event data responsive to an exception event;**

**monitoring the software application to identify an occurrence of said exception event and to obtain said exception event data;**

Ritz discloses [Abstract] events are monitored within an operating system, and at least a subset of events are logged to a log file. In response to the detection of error conditions, a diagnostics module is invoked.

**examining said exception event data to determine whether said exception event is a critical exception event and to identify critical exception event data;**

**determining type of said critical exception event; and  
processing said critical exception event data responsive to said type of said  
critical exception event.**

Ritz further discloses [Abstract] the diagnostic module queries the log file to correlate events relevant to diagnosis of the problem, and identifies the root cause by evaluating the results of the query. Once the root cause of the problem is diagnosed, a resolution module corresponding to that root cause may be invoked to programmatically resolve the problem.

As per claim 2: **The method of Claim 1, wherein said operating includes operating said software application in at least one of a .NET framework and a J2EE framework** [Abstract; operating system (Windows)].

As per claim 3: **The method of Claim 1, wherein said determining includes determining whether said type of said critical exception is at least one of a primary critical exception event and a derived critical exception event.**

Ritz discloses [Abstract] events are monitored within an operating system, and at least a subset of the events are logged to a log file. It is understood that a new event logged would be a primary critical exception. If a similar log exists, it would be a derived critical exception event.

As per claim 4: **The method of Claim 3, wherein said processing includes processing said critical exception event data responsive to at least one of said primary critical exception event and said derived critical exception event.**

Ritz discloses [Abstract] events are monitored within an operating system, and at least a subset of the events are logged to a log file. It is understood that a new event logged would be a primary critical exception. If a similar log exists, it would be a derived critical exception event.

As per claim 7: **The method of Claim 1, wherein said examining includes examining said critical exception event data to determine if an exception chain exists.**

Ritz discloses [col. 06, lines 14-22] the diagnostics policy service determines when an actual problem has occurred by, for example, detecting a predetermined single error condition, or by detecting a predetermined sequence of error conditions has arisen [exception chain exists].

As per claim 8: **The method of Claim 7, wherein said processing further includes collecting critical exception event data responsive to said critical exception event and creating an exception event information database.**

Ritz discloses [Abstract] events are monitored within an operating system, and at least a subset of the events are logged to a log file [information database].

As per claim 9: **The method of Claim 8, wherein said processing further includes creating said critical exception chain and associating said collected critical exception event data with said critical exception chain.**

Ritz discloses [col. 06, lines 14-22] the diagnostics policy service determines when an actual problem has occurred by, for example, detecting a predetermined single error condition, or by detecting a predetermined sequence of error conditions has arisen [exception chain exists]. Ritz further discloses [col. 06, lines 23-29] once a problem is detected, the computing system performs a functional result-oriented step for programmatically diagnosing a problem evidenced by the one or more error conditions.

As per claim 10: **The method of Claim 7, wherein said processing includes associating said collected critical exception event data with said critical exception chain.**

Ritz discloses [col. 06, lines 14-22] the diagnostics policy service determines when an actual problem has occurred by, for example, detecting a predetermined single error condition, or by detecting a predetermined sequence of error conditions has arisen [exception chain exists]. Ritz further discloses [col. 06, lines 23-29] once a problem is detected, the computing system performs a functional result-oriented step for programmatically diagnosing a problem evidenced by the one or more error conditions.

As per claim 11: **The method of Claim 1, wherein said processing further includes comparing said critical exception event data with data contained within an**

**exception event information database to determine whether said exception event is said critical exception event** [col. 07, lines 32-63].

As per claim 12: **The method of Claim 1, wherein said examining further includes labeling said exception event as at least one of a critical exception, a non-critical exception, a derived exception event and a primary exception event.**

Ritz discloses [col. 07, lines 46-63] if the query results are associate with an identified root cause, the invoked diagnostics module may invoke an appropriate resolution module to perform an identified resolution that corresponds to the identified root cause. The identified root cause for a problem is some problem that is known to exist [derived exception event]. It is understood that if a problem is not known to exist, it would be a primary exception event.

Ritz further discloses [col. 09, lines 6-9] if the error event does not have a known root cause associated with it [critical exception], diagnostics module will report this information to the activity log, which in turn sends an error report to error reporting service. It is understood that if the error even does have a known root cause, it can be fixed with predetermined instructions to follow [non-critical exception].

As per claim 13: **The method of Claim 12, wherein said processing further includes updating said exception event information database with said exception event data** [col. 08, lines 53-60].



As per claims 14-16 and 18: Although claims 14-16 and 18 are directed towards a system claim, they are rejected under the same rationale as the method claims 1, 3, 2, and 4, respectively.

As per claims 19 and 20: Although claims 19 and 20 are directed towards a machine-readable medium claim, they are rejected under the same rationale as the method claim 1.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JIGAR PATEL whose telephone number is (571)270-5067. The examiner can normally be reached on Mon-Fri 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on 571-272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott T Baderman/  
Supervisory Patent Examiner, Art  
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